

RULEMAKING NOTICE FORM

Notice Number _____ Rule Number Env-Dw 1002 (currently Env-Ws 394)

1. Agency Name & Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	2. RSA Authority: <u>RSA 486-A:11</u> 3. Federal Authority: _____ 4. Type of Action: Adoption _____ Amendment _____ Repeal _____ Readoption _____ Readoption w/amendment <u> X </u>
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5. Short Title: Water Supply Land Protection Grant Program

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

The existing rules, Env-Ws 394, establish the procedures and criteria for the Water Supply Land Protection Grant Program. Under this program, certain entities are eligible to apply for, and receive, grants to purchase and protect land within the source water protection areas of active or proposed sources of water for community or non-community, non-transient water systems. RSA 486-A:3, II provides that the state may grant up to 25 percent of the cost of acquiring eligible water supply lands to help ensure the permanent protection of these critical drinking water resources. The existing rules will expire on May 3, 2009 unless readopted. DES thus is proposing to readopt the rules with amendments that are intended to: (1) add definitions and use defined terms to simplify and clarify the rules; (2) restructure and revise the rules for clarity; (3) replace a fixed grant cycle with provisions that allow DES to establish application deadlines based on funding availability; (4) adjust the preliminary and final application requirements to better reflect when certain information is required and to delete unnecessary information; (5) extend grant eligibility to land in a water supply watershed outside a 5 mile radius of the drinking water source provided the land has riparian frontage; (6) clarify and revise the requirements regarding eligibility of land already owned by the applicant; (7) remove the requirement that a plan and a schedule for owning or controlling the entire sanitary radius within 3 years be included in an application; (8) clarify the scoring procedures; (9) revise the point system for determining the priority of applications; (10) clarify the requirements relative to surveys, appraisals, title opinions, and stewardship plans; (11) require applicants to only provide one paper or electronic copy of the survey instead of two paper copies and a mylar copy; (12) require conservation easements to prohibit of all motorized vehicles, subject to a limited exception for snowmobiles and all terrain vehicles being run on snow; and (13) redesignate the rules as Env-Dw 1002 as part of the redesignation of DES rules that is in process.

6. (b) Brief description of the groups affected:

Water supply land protection grant applicants and grantees will be affected by these rules. Only a nonprofit organization exempt from taxation under §501(c)(3) of the Internal Revenue Code which has public water supply as its principal mission or a municipality wishing to protect a community water system (CWS) or a non-transient non-community water system (NTNC) would be eligible for these grants.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule Section(s)	State Statute(s) Implemented
Env-Dw 1002.01	RSA 486-A:1
Env-Dw 1002.02	RSA 486-A:2
Env-Dw 1002.03(a) and (b)	RSA 486-A:11, II
Env-Dw 1002.03(c)	RSA 486-A:11, III
Env-Dw 1002.03(d)	RSA 486-A:9, II(d); RSA 486-A:11, IV
Env-Dw 1002.03(e) and (f)	RSA 486-A:9, II(d); RSA 486-A:11, I, III, & V; RSA 486-A:13

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6. (c) continued

Rule Section(s)	State Statute(s) Implemented
Env-Dw 1002.04	RSA 486-A:11, II & III
Env-Dw 1002.05	RSA 486-A:2, III-a & VIII; RSA 486-A:7, II(a); RSA 486-A:11, II
Env-Dw 1002.06	RSA 486-A:2, III-a & VIII; RSA 486-A:3, II; RSA 486-A:12
Env-Dw 1002.07	RSA 486-A:11, II & III
Env-Dw 1002.08	RSA 486-A:9, II; RSA 486-A:11, II & III
Env-Dw 1002.09	RSA 486-A:11, III
Env-Dw 1002.10	RSA 486-A:7, II(a) - (e); RSA 486-A:11, III
Env-Dw 1002.11	RSA 486-A:11
Env-Dw 1002.12 - Env-Dw 1002.14	RSA 486-A:8, II; RSA 486-A:11, IV
Env-Dw 1002.15	RSA 486-A:11, III
Env-Dw 1002.16 & Env-Dw 1002.17	RSA 486-A:11, I & III
Env-Dw 1002.18	RSA 486-A:11, III
Env-Dw 1002.19	RSA 486-A:1; RSA 486-A:11, III
Env-Dw 1002.20	RSA 486-A:11, III
Env-Dw 1002.21	RSA 486-A:11, III & V
Env-Dw 1002.22	RSA 486-A:7, II(c) & (d); RSA 486-A:11
Env-Dw 1002.23	RSA 486-A:13
Env-Dw 1002.24	RSA 486-A:11; RSA 541-A:22, IV

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	Holly Green	Title:	Environmentalist III
Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-3114
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		E-mail:	holly.green@des.nh.gov

The rules also can be viewed in PDF at <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm> TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Friday, March 20, 2009, 4:00 p.m.**

☒ Fax ☒ E-mail ☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, March 10, 2009, 10:00 a.m.**

Place: **Rooms 110 - 111, DES Offices, 29 Hazen Drive, Concord, N.H.**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 09:006 , dated 01/26/09 See Attached.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

Under the Water Supply Land Protection Grant program, eligible entities may apply for grants to assist with protecting land around drinking water sources. Because this is a voluntary program, any costs would only be incurred after a political subdivision voted to seek a grant. The proposed readoption with amendment of the rules does not create, modify, or expand the program in such a way as to require action by political subdivisions and so does not require political subdivisions to make any expenditures. The rules thus do not violate Part I, Article 28-a of the N.H. Constitution.